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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------|------------------|
| 09/752,372 | 12/29/2000 | Jacob Christensen | 42390P10205 | 1521 |
| 8791 | 7590 | 09/20/2005 | | |
| BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030 | | | EXAMINER HYUN, SOON D | |
| | | | ART UNIT 2661 | PAPER NUMBER |

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/752,372 | CHRISTENSEN, JACOB | |
| | Examiner | Art Unit | |
| | Soon D. Hyun | 2661 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-8,10-14,17-19,22-24,27 and 31-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 and 24 is/are allowed.
- 6) ☒ Claim(s) 3-5,10-14,17,18,22,23,27,31,32 and 34-36 is/are rejected.
- 7) ☒ Claim(s) 6-8,31-33 and 37-39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 3-5, 11-14, 17, 18, 22, 23, 27, and 34-36 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 3-5, 13, 14, 17, 18, 22, 23, 27, and 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Bruckman (U.S. Patent No. 6,891,855).

Regarding claims 3-5, 13, 14, and 27, Bruckman discloses that a method to manage packet fragmentation, comprising:

determining an operating parameter for a packet, wherein the operating parameter represents a priority level, i.e., a dynamic fragmenter (28 in FIG 1) determines a priority level of a packet (col. 5., lines 6-7);

determining an operating status (active to fragment) to be set in accordance with the priority level, i.e., the dynamic fragmenter determines the

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determining an operating status (active to fragment) to be set in accordance with the priority level, i.e., the dynamic fragmenter determines the fragmentation (active) based on a temporary fragment length when it receives a packet with low priority and the dynamic fragmenter determines the fragmentation (active) when delay of a packet with high priority is greater than the Max_Wait (col. 5, lines 26-34);

performing packet fragmentation substantially in accordance with the operating status (col. 5, lines 12-25).

Regarding claim 4, refer to the discussion for claim 3, the dynamic fragmenter determines the fragmentation (active) when delay of the packet with high priority is greater than the Max_Wait (col. 5, lines 26-34), i.e., the priority level is high and the operating status is active.

Regarding claim 5, it is inherently that the fragmentation is not performed (de-active) when a length of a packet with the low priority level is smaller than MinL_Fr (col. 4, lines 62-63 and col. 5, lines 16-20), i.e., the priority level is low and the operating status is de-active.

Regarding claims 17 and 18, refer to the discussion for claim 3. Bruckman further teaches that the method is performing by CPU or DSP with suitable software (col.4, lines 43-47).

Regarding claims 22 and 23, refer to the discussion for claim 3, the dynamic fragmenter is a computer platform.

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Regarding claim 34, refer to the discussion for claim 3. Bruckman further discloses that the operating parameter comprises a connection speed (a current data rate, col. 5, lines 6-8).

Regarding claim 35, Bruckman further discloses that the packet fragment size increases within a priority level (low priority) as the current data rate increases (see col. 5, TABLE 1).

Regarding claim 36, Bruckman further discloses that the packet fragment size decreases within a priority level (low priority) as the current data rate decreases (see col. 5, TABLE 1).

Bruckman further discloses that the packet fragment size increases within a priority level (low priority) as the current data rate increases (see col. 5, TABLE 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruckman (U.S. Patent No. 6,891,855).

Refer to the discussion for claim 3. Bruckman does not explicitly teach whether the packet has an identifier of priority level. However, Bruckman further teaches that packet sources (26 in FIG. 1) provide different packets with different

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QoS requirements and priorities to the dynamic fragmenter. Therefore, it would have been obvious to one having ordinary skill in the art to incorporate an identifier for the priorities and QoS (a differential services code byte) into each packet to indicate the priorities and QoS.

Allowable Subject Matter

6. Claims 19 and 24 are allowed.

Claims 6-8, 31-33, and 37-39, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach the step of evaluating whether the operating parameter has been determined within a limited time period as recited in claims 6, 19, 24 and 33.

The prior art of record fails to teach that the fragment size decreases as the priority level increases in combination with other elements as recited in claim 31.

The prior art of record fails to teach that the fragment size increases as the priority level decreases in combination with other elements as recited in claim 32.


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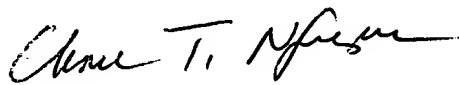
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Soon D. Hyun whose telephone number is 571-272-3121. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T. Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


S. Hyun
09/15/2005



CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
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